IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 111 OF 2005

IN

STAMP NUMBER MAIN NO. 1472 OF 2005

STATE,THROUGH PUBLIC PROSECUTOR, PANAJI GOA ....Applicants

Versus

SHAMBA RAMA WARANG AND 4 ORS., ...Respondents

Shri S.N. Sardessai, P.P. for the State-Applicant.

Shri J.A. Lobo, U/L.A.S. for the respondents.

Coram:- N. A. BRITTO, J.

Date:- 18th August, 2005

P.C.:

Heard Shri Sardessai, the learned P.P. on behalf of the Applicant-State and learned Advocate Shri Lobo on behalf of the respondents-accused.

In view of no objection given for condonation of delay of 86 days in filing the application for leave to appeal, the said delay is condoned.

However, the matter cannot be allowed to rest at that. It is invariably seen that the State, as a matter of rule, rather than an exception does not file applications for leave to appeal within the time prescribed. If the present application was considered on merits, the same was bound to be rejected. No doubt the Courts are little more liberal whilst considering the case of the State for condonation of delay as it involves dealing with the files by rather impersonal machinery of the Government, but that certainly does not mean that the file for obtaining leave from the Government

should be allowed to rest at different desks for innumerable days without any explanation. For example, in this case, the decision of the Government to file appeal/leave to appeal was given on 8.3.05, but the present application came to be filed only on 17.6.05 i.e. after a delay of more than 3 months. The file was cleared from the Office of the Superintendent of Police (North) on 21.3.05 and one does not know as to where the file was pending from that date till 17.6.05. When the present application came to be filed it was certainly necessary on the part of the applicant/State to have explained the delay for the said period and on account of whom the same was occasioned. It is not enough just to show the movement of the file from one officer to another and claim condonation. Much time appears to have been wasted in routing the file from officer to officer. Does it really require that the file should be moved through so manny officers as can be seen from Annexure A? It appears that before the decision is taken by the Government the file has got to be moved through two Departments of the Government namely the Law Department and the Home Department, which also involves moving of the file through the Director of Prosecution as well as the Office of the Superintendent of Police. Certainly new ways and methods could be devised and the procedures streamlined and shortened so that the approval for leave to appeal can be given within the time prescribed and without applying for condonation of delay invariably in each and every case.

Copy of this Order be sent to the Chief Secretary so that the procedures in obtaining the decision of the Government in such cases is shortened so that such matters can be dealt with during the time prescribed. Order accordingly.

N. A. BRITTO, J.